

REMARKS

Claims 1, 3-18, and 23-27 are pending in the application with claims 1, 15, and 25 being the independent claims. Claims 15-18 are withdrawn. A proposed amendment to claim 27 corrects an informality and does not change the scope of the claim. In view of the remarks that follow, Applicant respectfully requests reconsideration.

Independent Claims 1 and 27

The Office Action indicated that claims 1 and 27 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,893,889 to Harrington. This paper includes a proposed amendment to claim 27 to correct an informality, but not to change the scope of the claim. Applicant requests that the proposed amendment be entered and the claim be considered in its amended form.

The PTO specifies in MPEP §2131 that in order for a reference to anticipate a claim under §102, the reference must teach each and every element recited in the claim.

Applicant submits that claims 1 and 27 are not anticipated by Harrington because Harrington fails to disclose all the respective features of those claims. More specifically, Harrington fails to disclose a prosthetic device having, among other things, a “spherical ball bearing.”

The Office Action identifies the upper end 46 of the threaded post 45 as anticipating the claimed the spherical ball bearing. See Office Action, page 2. However, because the upper end 46 is a part of a post, it is not truly spherical and therefore should not properly anticipate a claim element of a “spherical ball bearing,” as recited in claims 1 and 27. While Harrington refers to the upper end 46 as “a generally spherical upper end 46” (column 3, line 25), the post 45 makes the upper end 46 only partially spherical. And a partially spherical end of a post is not a “spherical ball bearing” as recited in claims 1 and 27. Therefore, Harrington does not properly anticipate either of claim 1 or claim 27. Applicant respectfully requests that the Examiner withdraw the rejection of these claims.

Dependent Claims

Claims 3-14 and 23-26 depend from claim 1, and also are believed to be distinct from the art of record, for example for the same reasons discussed above with respect to the claim 1.

Conclusion

For at least the reasons set forth above, Applicant respectfully requests that the Examiner reconsider and issue a formal notice of allowance.

Please grant any extension of time required to enter this response and charge any additional fees required by this paper to our Deposit Account No. 08-1394.

Respectfully submitted,



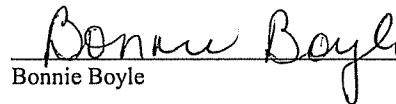
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